

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DENNIS LEWIS, # B-58535,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 13-cv-00696-JPG
)	
VIENNA CORRECTIONAL CENTER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

Plaintiff Dennis Lewis, an inmate currently incarcerated at Vienna Correctional Center (“Vienna”), brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 (Doc. 1). Plaintiff is serving two 2-year sentences for theft and possession of a controlled substance. Plaintiff’s claims arise from the conditions of his confinement at Vienna. He seeks monetary damages.

The Complaint

The allegations in Plaintiff’s complaint span a single paragraph (Doc. 1, p. 5). Plaintiff alleges that he entered Vienna on April 26, 2013. He was placed in Building #19. He has resided on the second and third floor.

Beyond this, it is exceedingly unclear what Plaintiff alleges. He strings together a list of legal terms and unintelligible phrases that also appear in numerous other prisoner complaints filed with this Court. The complaint states, among other things, “. . . I’m in imminent ‘danger’ gross neglig[e]nce ‘asbestos’ punitive damages’ verosity, perpensity ‘mental anguish, torque claim, criminal malfeasance with harmful intent reconstruction era law, my due process 14th/5th amendments – my crip act title 6 civil acts are violated laches 8th amendment.” Plaintiff seeks \$50 million in damages from Vienna (Doc. 1, p. 6).

Merits Review Under § 1915A

This case is now before the Court for a preliminary review of the complaint pursuant to 28 U.S.C. § 1915A. Under § 1915A, the Court is required to promptly screen prisoner complaints to filter out nonmeritorious claims. 28 U.S.C. § 1915A(a). The Court is required to dismiss any portion of the complaint that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law is immune from such relief. 28 U.S.C. § 1915A(b).

An action or claim is frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Conversely, a complaint is plausible on its face “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Although the Court is obligated to accept factual allegations as true, *see Smith v. Peters*, 631 F.3d 418, 419 (7th Cir. 2011), some factual allegations may be so sketchy or implausible that they fail to provide sufficient notice of a plaintiff’s claim. *Brooks v. Ross*, 578 F.3d 574, 581 (7th Cir. 2009).

After fully considering the allegations in the complaint, the Court concludes that it fails to state any cognizable claim and shall be dismissed. Plaintiff attempts unsuccessfully to assert an Eighth Amendment claim based on the conditions of his confinement. However, Plaintiff’s complaint is so deficient and devoid of factual allegations that it fails to satisfy minimal pleading standards.

In order to prevail on a conditions of confinement claim, Plaintiff must allege facts that,

if true, would satisfy the objective and subjective components applicable to all Eighth Amendment claims. *McNeil v. Lane*, 16 F.3d 123, 124 (7th Cir. 1994); *see also Wilson v. Seiter*, 501 U.S. 294, 302 (1991). The objective component focuses on the nature of the acts or practices alleged to constitute cruel and unusual punishment. *Jackson v. Duckworth*, 955 F.2d 21, 22 (7th Cir. 1992). The objective analysis examines whether the conditions of confinement exceeded contemporary bounds of decency of a mature civilized society. *Id.* The condition must result in unquestioned and serious deprivations of basic human needs or deprive inmates of the minimal civilized measure of life's necessities. *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981); *accord Jamison-Bey v. Thieret*, 867 F.2d 1046, 1048 (7th Cir. 1989); *Meriwether v. Faulkner*, 821 F.2d 408, 416 (7th Cir. 1987).

In addition to showing objectively serious conditions, a plaintiff must also demonstrate the subjective component to an Eighth Amendment claim. The subjective component of unconstitutional punishment is the intent with which the acts or practices constituting the alleged punishment are inflicted. *Jackson*, 955 F.2d at 22. The subjective component requires that a prison official had a sufficiently culpable state of mind. *Wilson*, 501 U.S. at 298; *see also McNeil*, 16 F.3d at 124. In conditions of confinement cases, the relevant state of mind is deliberate indifference to inmate health or safety; the official must be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he also must draw the inference. *See, e.g., Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *Wilson*, 501 U.S. at 303; *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Del Raine v. Williford*, 32 F.3d 1024, 1032 (7th Cir. 1994).

Accepting all of the allegations in Plaintiff's complaint as true, the Court concludes that he has fallen far short of satisfying this legal standard. Rather than dismiss the entire action,

however, the Court shall allow Plaintiff one opportunity to submit an amended complaint in order to correct the deficiencies in his pleading.

In doing so, Plaintiff shall note that “Vienna Correctional Center” is not an entity subject to being sued in a civil rights action. The Supreme Court has held that “neither a State nor its officials acting in their official capacities are ‘persons’ under § 1983.” *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989). *See also Wynn v. Southward*, 251 F.3d 588, 592 (7th Cir. 2001) (Eleventh Amendment bars suits against states in federal court for money damages); *Billman v. Ind. Dep’t of Corr.*, 56 F.3d 785, 788 (7th Cir. 1995) (state Department of Corrections is immune from suit by virtue of Eleventh Amendment). Likewise, the Vienna Correctional Center, which is a division of the Illinois Department of Corrections, is not a “person” within the meaning of the Civil Rights Act, and is not subject to a § 1983 suit. *See Will*, 491 U.S. at 71. Therefore, Vienna Correctional Center shall be dismissed from this action with prejudice. In preparing the amended complaint, Plaintiff is advised to name as Defendant(s) only the prison employees who were directly, personally responsible for the alleged constitutional violation(s). *See Sanville v. McCaughtry*, 266 F.3d 724, 740 (7th Cir. 2001).

Disposition

IT IS HEREBY ORDERED that Plaintiff’s complaint (Doc. 1) is **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted. Defendant **VIENNA CORRECTIONAL CENTER** is **DISMISSED** from this action with prejudice.

IT IS FURTHER ORDERED that, should he wish to proceed with this case, Plaintiff shall file his First Amended Complaint on or before September 13, 2013. The amended complaint shall state the facts supporting Plaintiff’s claim regarding the conditions of his confinement at Vienna Correctional Center and shall name the individual defendants directly

responsible for the alleged constitutional deprivations.

Plaintiff is **ADVISED** that an amended complaint supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass'n of Am.*, 354 F.3d 632, 638 n.1 (7th Cir. 2004). The Court will not accept piecemeal amendments to the original complaint. Thus, the amended complaint must stand on its own, without reference to any other pleading. Failure to file an amended complaint that conforms with this Order shall result in the dismissal of this action with prejudice. Such a dismissal shall count as one of Plaintiff's three allotted "strikes" within the meaning of 28 U.S.C. § 1915(g).

No service shall be ordered on any Defendant until after the Court completes its § 1915A review of the First Amended Complaint.

In order to assist Plaintiff in preparing his amended complaint, the Clerk is **DIRECTED** to mail Plaintiff a blank civil rights complaint form.

Finally, Plaintiff is **ADVISED** that he is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* FED. R. CIV. P. 41(b).

IT IS SO ORDERED.

DATED: August 9, 2013

s/J. Phil Gilbert
United States District Judge